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MAY 14 2008
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

	)	2 CA-JV 2007-0093
	)	DEPARTMENT B
	)	
IN RE ALEXIS M.	)	MEMORANDUM DECISION
	)	Not for Publication
	)	Rule 28, Rules of Civil
	)	Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 18112601

Honorable Patricia G. Escher, Judge

AFFIRMED

Barbara LaWall, Pima County Attorney
By James M. Coughlin
Tucson
Attorneys for State

Ellinwood, Francis & Plowman
By D. Tyler Francis
Tucson
Attorneys for Minor

E S P I N O S A, Judge.

¶1 The minor, Alexis M., was adjudicated delinquent after the juvenile court found she had committed theft by control of property with a value of less than $1,000, a

class one misdemeanor. The court placed Alexis on probation for four months and ordered her to pay restitution to the victim in the amount of $375. On appeal, Alexis challenges the sufficiency of the evidence to support the adjudication. She also contends the state failed to establish the offense was committed in Pima County and therefore the court lacked jurisdiction of this matter. We affirm for the reasons stated below.

¶2 In reviewing Alexis's challenge, "we consider whether the evidence sufficed to permit a rational trier of fact to find the essential elements of the offense beyond a reasonable doubt." *In re Dayvid S.*, 199 Ariz. 169, ¶ 4, 15 P.3d 771, 772 (App. 2000). We do not reweigh the evidence, nor do we "consider the credibility of witnesses." *In re James P.*, 214 Ariz. 420, ¶ 24, 153 P.3d 1049, 1054 (App. 2007). When there are conflicts in the evidence, we leave to the juvenile court the task of resolving them. *See Lashonda M. v. Ariz. Dep't of Econ. Sec.*, 210 Ariz. 77, ¶ 16, 107 P.3d 923, 928 (App. 2005).

¶3 Alexis maintains there was insufficient evidence that she had stolen a digital media player, referred to in this case as an "MP3 player," that belonged to the victim. She contends four witnesses who testified at the adjudication hearing gave "widely varying accounts of the theft, however, none of the witnesses could explain how the property disappeared without a trace."

¶4 The delinquency petition charged Alexis with violating A.R.S. § 13-1802(A)(1), which provides a person commits theft if, "without lawful authority, the person knowingly . . . [c]ontrols property of another with the intent to deprive the other person of

such property." Although some of the witnesses apparently had seen more than others, one witness testified that he had actually seen Alexis approach the victim from behind, play with her hair, unzip the backpack the victim was wearing, and take the MP3 player of out the backpack. The victim testified she had heard the unzipping of her backpack when Alexis was behind her. When Alexis walked away, the victim checked her backpack and found the MP3 player was missing. Alexis then joined two other girls, one of whom testified that Alexis showed them an MP3 player that fit the description of the one belonging to the victim and admitted having taken it.

¶5 Although Alexis denied having taken the MP3 player when the victim confronted her a few minutes later, neither that nor the fact the victim found nothing when she searched Alexis and her backpack renders the evidence insufficient. As was its prerogative, the juvenile court clearly did not find Alexis credible, rejecting her testimony at the adjudication hearing. Other evidence, both direct and circumstantial, supported the inference that Alexis had taken the victim's MP3 player and thus supported the court's conclusion that the evidence established beyond a reasonable doubt Alexis had committed the charged offense.

¶6 We also agree with the state that there was sufficient evidence establishing the juvenile court's jurisdiction. The state elicited testimony that the offense had taken place at a specific middle school. That this middle school is located in Tucson, which is located in Pima County, is precisely the kind of fact of which this court may take judicial notice.

See, e.g., City of Phoenix v. Harnish, 214 Ariz. 158, n.3, 150 P.3d 245, 250 n.3 (App. 2007) (taking judicial notice that population of City of Phoenix exceeds 75,000); *cf. In re Anthony H.*, 196 Ariz. 200, ¶ 6, 994 P.2d 407, 408 (App. 1999) (finding juvenile court properly took judicial notice population of Maricopa County exceeded 500,000; judicial notice of fact is proper if fact is "'so notoriously true as not to be subject to reasonable dispute'"), *quoting State v. Lynch*, 115 Ariz. 19, 22, 562 P.2d 1386, 1389 (App. 1977). In addition, the school resource officer testified she was "with the City of Tucson."

¶7 For the reasons stated, the juvenile court's order adjudicating Alexis delinquent is affirmed.

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PHILIP G. ESPINOSA, Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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GARYE L. VÁSQUEZ, Judge